

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff's "sworn affidavit in support of plaintiff['s] claim" seeking an "emergency preliminary injunction and temporary restraining order." (#126). The Court will treat plaintiff's "affidavit" as a motion for injunctive relief.

This case has already reached a settlement (#115, 121) among all remaining defendants and, further, all defendants were voluntarily dismissed by plaintiff (#122). The Court notes plaintiff has previously attempted to file an action against his appointed counsel in this case for legal malpractice in *Harris v. Law Office of Kevin J. Dolley, et al.*, Case No. 1:18-cv-00059-ACL, which was dismissed for lack of subject-matter jurisdiction. That case involved plaintiff's apparent dissatisfaction with the settlement reached in this case. Plaintiff's alleges new claims of deliberate indifference against a new set of medical providers. Therefore, plaintiff must file a new action rather than seek injunctive relief in this case. See *De Beers Consolidated Mines v. United States*, 325 U.S. 212, 220 (1945) (an injunction should not issue when "it deals with a matter lying wholly

outside the issues in the suit"); *Atakpu v. Lawson*, 2006 WL 3803193 at *2 (S.D. Ohio Nov. 28, 2006) (detainee's motion seeking injunctive relief denied as unrelated to his complaint). Finally, the Court also notes that, according to plaintiff's motion, he is being treated by a "Dr. Tippen," who plaintiff does not suggest has been deliberately indifferent to his medical needs. Mere disagreement with the treatment being received is inadequate to state a constitutional violation. *See Dulany v. Carnahan*, 132 F.3d 1234, 1239 (8th Cir. 1997).

The Court finds no reason to reopen this matter pursuant to plaintiff's motion for injunctive relief. Plaintiff's motion will be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's "sworn affidavit in support of plaintiff['s] claim" seeking an "emergency preliminary injunction and temporary restraining order" (#126) is **DENIED**.

So ordered this 28th day of September 2018.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE